

Introduced by Senator Hollingsworth

February 22, 2005

An act to amend Section 12020 of the Penal Code, relating to weapons.

LEGISLATIVE COUNSEL'S DIGEST

SB 1042, as introduced, Hollingsworth. Firearms.

Existing law, subject to exceptions, makes it an offense for any person to manufacture or cause to be manufactured, import into the state, keep for sale, or offer or expose for sale, or to give, lend, or possess any of certain prohibited weapons, as specified.

This bill would make a technical, nonsubstantive change to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12020 of the Penal Code is amended to
2 read:
3 12020. (a) ~~Any~~Every person in this state who does any of the
4 following is punishable by imprisonment in a county jail not
5 exceeding one year or in the state prison:
6 (1) Manufactures or causes to be manufactured, imports into
7 the state, keeps for sale, or offers or exposes for sale, or who
8 gives, lends, or possesses any cane gun or wallet gun, any
9 undetectable firearm, any firearm which is not immediately
10 recognizable as a firearm, any camouflaging firearm container,
11 any ammunition which contains or consists of any fl  chette dart,
12 any bullet containing or carrying an explosive agent, any ballistic

1 knife, any multiburst trigger activator, any nunchaku, any
2 short-barreled shotgun, any short-barreled rifle, any metal
3 knuckles, any belt buckle knife, any leaded cane, any zip gun,
4 any shuriken, any unconventional pistol, any lipstick case knife,
5 any cane sword, any shobi-zue, any air gauge knife, any writing
6 pen knife, any metal military practice handgrenade or metal
7 replica handgrenade, or any instrument or weapon of the kind
8 commonly known as a blackjack, slungshot, billy, sandclub, sap,
9 or sandbag.

10 (2) Commencing January 1, 2000, manufactures or causes to
11 be manufactured, imports into the state, keeps for sale, or offers
12 or exposes for sale, or who gives, or lends, any large-capacity
13 magazine.

14 (3) Carries concealed upon his or her person any explosive
15 substance, other than fixed ammunition.

16 (4) Carries concealed upon his or her person any dirk or
17 dagger.

18 However, a first offense involving any metal military practice
19 handgrenade or metal replica handgrenade shall be punishable
20 only as an infraction unless the offender is an active participant
21 in a criminal street gang as defined in the Street Terrorism and
22 Enforcement and Prevention Act (Chapter 11 (commencing with
23 Section 186.20) of Title 7 of Part 1). A bullet containing or
24 carrying an explosive agent is not a destructive device as that
25 term is used in Section 12301.

26 (b) Subdivision (a) does not apply to any of the following:

27 (1) The sale to, purchase by, or possession of short-barreled
28 shotguns or short-barreled rifles by police departments, sheriffs'
29 offices, marshals' offices, the California Highway Patrol, the
30 Department of Justice, or the military or naval forces of this state
31 or of the United States for use in the discharge of their official
32 duties or the possession of short-barreled shotguns and
33 short-barreled rifles by peace officer members of a police
34 department, sheriff's office, marshal's office, the California
35 Highway Patrol, or the Department of Justice when on duty and
36 the use is authorized by the agency and is within the course and
37 scope of their duties and the peace officer has completed a
38 training course in the use of these weapons certified by the
39 Commission on Peace Officer Standards and Training.

1 (2) The manufacture, possession, transportation or sale of
2 short-barreled shotguns or short-barreled rifles when authorized
3 by the Department of Justice pursuant to Article 6 (commencing
4 with Section 12095) of this chapter and not in violation of federal
5 law.

6 (3) The possession of a nunchaku on the premises of a school
7 which holds a regulatory or business license and teaches the arts
8 of self-defense.

9 (4) The manufacture of a nunchaku for sale to, or the sale of a
10 nunchaku to, a school which holds a regulatory or business
11 license and teaches the arts of self-defense.

12 (5) Any antique firearm. For purposes of this section, “antique
13 firearm” means any firearm not designed or redesigned for using
14 rimfire or conventional center fire ignition with fixed
15 ammunition and manufactured in or before 1898 (including any
16 matchlock, flintlock, percussion cap, or similar type of ignition
17 system or replica thereof, whether actually manufactured before
18 or after the year 1898) and also any firearm using fixed
19 ammunition manufactured in or before 1898, for which
20 ammunition is no longer manufactured in the United States and is
21 not readily available in the ordinary channels of commercial
22 trade.

23 (6) Tracer ammunition manufactured for use in shotguns.

24 (7) Any firearm or ammunition that is a curio or relic as
25 defined in Section 478.11 of Title 27 of the Code of Federal
26 Regulations and which is in the possession of a person permitted
27 to possess the items pursuant to Chapter 44 (commencing with
28 Section 921) of Title 18 of the United States Code and the
29 regulations issued pursuant thereto. Any person prohibited by
30 Section 12021, 12021.1, or 12101 of this code or Section 8100 or
31 8103 of the Welfare and Institutions Code from possessing
32 firearms or ammunition who obtains title to these items by
33 bequest or intestate succession may retain title for not more than
34 one year, but actual possession of these items at any time is
35 punishable pursuant to Section 12021, 12021.1, or 12101 of this
36 code or Section 8100 or 8103 of the Welfare and Institutions
37 Code. Within the year, the person shall transfer title to the
38 firearms or ammunition by sale, gift, or other disposition. Any
39 person who violates this paragraph is in violation of subdivision
40 (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and

1 county, or city agency that is charged with the enforcement of
2 any law for use in the discharge of their official duties, or the
3 possession of any weapon, device, or ammunition, other than a
4 short-barreled rifle or short-barreled shotgun, by peace officers
5 thereof when on duty and the use is authorized by the agency and
6 is within the course and scope of their duties.

7 (13) Weapons, devices, and ammunition, other than a
8 short-barreled rifle or short-barreled shotgun, that are sold by,
9 manufactured by, exposed or kept for sale by, possessed by,
10 imported by, or lent by, persons who are in the business of
11 selling weapons, devices, and ammunition listed in subdivision
12 (a) solely to the entities referred to in paragraph (12) when
13 engaging in transactions with those entities.

14 (14) The manufacture for, sale to, exposing or keeping for sale
15 to, importation of, or lending of wooden clubs or batons to
16 special police officers or uniformed security guards authorized to
17 carry any wooden club or baton pursuant to Section 12002 by
18 entities that are in the business of selling wooden batons or clubs
19 to special police officers and uniformed security guards when
20 engaging in transactions with those persons.

21 (15) Any plastic toy handgrenade, or any metal military
22 practice handgrenade or metal replica handgrenade that is a relic,
23 curio, memorabilia, or display item, that is filled with a
24 permanent inert substance or that is otherwise permanently
25 altered in a manner that prevents ready modification for use as a
26 grenade.

27 (16) Any instrument, ammunition, weapon, or device listed in
28 subdivision (a) that is not a firearm that is found and possessed
29 by a person who meets all of the following:

30 (A) The person is not prohibited from possessing firearms or
31 ammunition pursuant to Section 12021 or 12021.1 or paragraph
32 (1) of subdivision (b) of Section 12316 of this code or Section
33 8100 or 8103 of the Welfare and Institutions Code.

34 (B) The person possessed the instrument, ammunition,
35 weapon, or device no longer than was necessary to deliver or
36 transport the same to a law enforcement agency for that agency's
37 disposition according to law.

38 (C) If the person is transporting the listed item, he or she is
39 transporting the listed item to a law enforcement agency for
40 disposition according to law.

1 (17) Any firearm, other than a short-barreled rifle or
2 short-barreled shotgun, that is found and possessed by a person
3 who meets all of the following:

4 (A) The person is not prohibited from possessing firearms or
5 ammunition pursuant to Section 12021 or 12021.1 or paragraph
6 (1) of subdivision (b) of Section 12316 of this code or Section
7 8100 or 8103 of the Welfare and Institutions Code.

8 (B) The person possessed the firearm no longer than was
9 necessary to deliver or transport the same to a law enforcement
10 agency for that agency's disposition according to law.

11 (C) If the person is transporting the firearm, he or she is
12 transporting the firearm to a law enforcement agency for
13 disposition according to law.

14 (D) Prior to transporting the firearm to a law enforcement
15 agency, he or she has given prior notice to that law enforcement
16 agency that he or she is transporting the firearm to that law
17 enforcement agency for disposition according to law.

18 (E) The firearm is transported in a locked container as defined
19 in subdivision (d) of Section 12026.2.

20 (18) The possession of any weapon, device, or ammunition, by
21 a forensic laboratory or any authorized agent or employee thereof
22 in the course and scope of his or her authorized activities.

23 (19) The sale of, giving of, lending of, importation into this
24 state of, or purchase of, any large-capacity magazine to or by any
25 federal, state, county, city and county, or city agency that is
26 charged with the enforcement of any law, for use by agency
27 employees in the discharge of their official duties whether on or
28 off duty, and where the use is authorized by the agency and is
29 within the course and scope of their duties.

30 (20) The sale to, lending to, transfer to, purchase by, receipt
31 of, or importation into this state of, a large-capacity magazine by
32 a sworn peace officer as defined in Chapter 4.5 (commencing
33 with Section 830) of Title 3 of Part 2 who is authorized to carry a
34 firearm in the course and scope of his or her duties.

35 (21) The sale or purchase of any large-capacity magazine to or
36 by a person licensed pursuant to Section 12071.

37 (22) The loan of a lawfully possessed large-capacity magazine
38 between two individuals if all of the following conditions are
39 met:

1 (A) The person being loaned the large-capacity magazine is
2 not prohibited by Section 12021, 12021.1, or 12101 of this code
3 or Section 8100 or 8103 of the Welfare and Institutions Code
4 from possessing firearms or ammunition.

5 (B) The loan of the large-capacity magazine occurs at a place
6 or location where the possession of the large-capacity magazine
7 is not otherwise prohibited and the person who lends the
8 large-capacity magazine remains in the accessible vicinity of the
9 person to whom the large-capacity magazine is loaned.

10 (23) The importation of a large-capacity magazine by a person
11 who lawfully possessed the large-capacity magazine in the state
12 prior to January 1, 2000, lawfully took it out of the state, and is
13 returning to the state with the large-capacity magazine previously
14 lawfully possessed in the state.

15 (24) The lending or giving of any large-capacity magazine to a
16 person licensed pursuant to Section 12071, or to a gunsmith, for
17 the purposes of maintenance, repair, or modification of that
18 large-capacity magazine.

19 (25) The return to its owner of any large-capacity magazine by
20 a person specified in paragraph (24).

21 (26) The importation into this state of, or sale of, any
22 large-capacity magazine by a person who has been issued a
23 permit to engage in those activities pursuant to Section 12079,
24 when those activities are in accordance with the terms and
25 conditions of that permit.

26 (27) The sale of, giving of, lending of, importation into this
27 state of, or purchase of, any large-capacity magazine, to or by
28 entities that operate armored vehicle businesses pursuant to the
29 laws of this state.

30 (28) The lending of large-capacity magazines by the entities
31 specified in paragraph (27) to their authorized employees, while
32 in the course and scope of their employment for purposes that
33 pertain to the entity's armored vehicle business.

34 (29) The return of those large-capacity magazines to those
35 entities specified in paragraph (27) by those employees specified
36 in paragraph (28).

37 (30) (A) The manufacture of a large-capacity magazine for
38 any federal, state, county, city and county, or city agency that is
39 charged with the enforcement of any law, for use by agency
40 employees in the discharge of their official duties whether on or

1 off duty, and where the use is authorized by the agency and is
2 within the course and scope of their duties.

3 (B) The manufacture of a large-capacity magazine for use by a
4 sworn peace officer as defined in Chapter 4.5 (commencing with
5 Section 830) of Title 3 of Part 2 who is authorized to carry a
6 firearm in the course and scope of his or her duties.

7 (C) The manufacture of a large-capacity magazine for export
8 or for sale to government agencies or the military pursuant to
9 applicable federal regulations.

10 (31) The loan of a large-capacity magazine for use solely as a
11 prop for a motion picture, television, or video production.

12 (32) The purchase of a large-capacity magazine by the holder
13 of a special weapons permit issued pursuant to Section 12095,
14 12230, 12250, 12286, or 12305, for any of the following
15 purposes:

16 (A) For use solely as a prop for a motion picture, television, or
17 video production.

18 (B) For export pursuant to federal regulations.

19 (C) For resale to law enforcement agencies, government
20 agencies, or the military, pursuant to applicable federal
21 regulations.

22 (c) (1) As used in this section, a “short-barreled shotgun”
23 means any of the following:

24 (A) A firearm which is designed or redesigned to fire a fixed
25 shotgun shell and having a barrel or barrels of less than 18 inches
26 in length.

27 (B) A firearm which has an overall length of less than 26
28 inches and which is designed or redesigned to fire a fixed
29 shotgun shell.

30 (C) Any weapon made from a shotgun (whether by alteration,
31 modification, or otherwise) if that weapon, as modified, has an
32 overall length of less than 26 inches or a barrel or barrels of less
33 than 18 inches in length.

34 (D) Any device which may be readily restored to fire a fixed
35 shotgun shell which, when so restored, is a device defined in
36 subparagraphs (A) to (C), inclusive.

37 (E) Any part, or combination of parts, designed and intended
38 to convert a device into a device defined in subparagraphs (A) to
39 (C), inclusive, or any combination of parts from which a device
40 defined in subparagraphs (A) to (C), inclusive, can be readily

1 assembled if those parts are in the possession or under the control
2 of the same person.

3 (2) As used in this section, a “short-barreled rifle” means any
4 of the following:

5 (A) A rifle having a barrel or barrels of less than 16 inches in
6 length.

7 (B) A rifle with an overall length of less than 26 inches.

8 (C) Any weapon made from a rifle (whether by alteration,
9 modification, or otherwise) if that weapon, as modified, has an
10 overall length of less than 26 inches or a barrel or barrels of less
11 than 16 inches in length.

12 (D) Any device which may be readily restored to fire a fixed
13 cartridge which, when so restored, is a device defined in
14 subparagraphs (A) to (C), inclusive.

15 (E) Any part, or combination of parts, designed and intended
16 to convert a device into a device defined in subparagraphs (A) to
17 (C), inclusive, or any combination of parts from which a device
18 defined in subparagraphs (A) to (C), inclusive, may be readily
19 assembled if those parts are in the possession or under the control
20 of the same person.

21 (3) As used in this section, a “nunchaku” means an instrument
22 consisting of two or more sticks, clubs, bars or rods to be used as
23 handles, connected by a rope, cord, wire, or chain, in the design
24 of a weapon used in connection with the practice of a system of
25 self-defense such as karate.

26 (4) As used in this section, a “wallet gun” means any firearm
27 mounted or enclosed in a case, resembling a wallet, designed to
28 be or capable of being carried in a pocket or purse, if the firearm
29 may be fired while mounted or enclosed in the case.

30 (5) As used in this section, a “cane gun” means any firearm
31 mounted or enclosed in a stick, staff, rod, crutch, or similar
32 device, designed to be, or capable of being used as, an aid in
33 walking, if the firearm may be fired while mounted or enclosed
34 therein.

35 (6) As used in this section, a “fléchette dart” means a dart,
36 capable of being fired from a firearm, that measures
37 approximately one inch in length, with tail fins that take up
38 approximately five-sixteenths of an inch of the body.

39 (7) As used in this section, “metal knuckles” means any device
40 or instrument made wholly or partially of metal which is worn

1 for purposes of offense or defense in or on the hand and which
2 either protects the wearer's hand while striking a blow or
3 increases the force of impact from the blow or injury to the
4 individual receiving the blow. The metal contained in the device
5 may help support the hand or fist, provide a shield to protect it, or
6 consist of projections or studs which would contact the individual
7 receiving a blow.

8 (8) As used in this section, a "ballistic knife" means a device
9 that propels a knifelike blade as a projectile by means of a coil
10 spring, elastic material, or compressed gas. Ballistic knife does
11 not include any device which propels an arrow or a bolt by
12 means of any common bow, compound bow, crossbow, or
13 underwater speargun.

14 (9) As used in this section, a "camouflaging firearm container"
15 means a container which meets all of the following criteria:

16 (A) It is designed and intended to enclose a firearm.

17 (B) It is designed and intended to allow the firing of the
18 enclosed firearm by external controls while the firearm is in the
19 container.

20 (C) It is not readily recognizable as containing a firearm.

21 "Camouflaging firearm container" does not include any
22 camouflaging covering used while engaged in lawful hunting or
23 while going to or returning from a lawful hunting expedition.

24 (10) As used in this section, a "zip gun" means any weapon or
25 device which meets all of the following criteria:

26 (A) It was not imported as a firearm by an importer licensed
27 pursuant to Chapter 44 (commencing with Section 921) of Title
28 18 of the United States Code and the regulations issued pursuant
29 thereto.

30 (B) It was not originally designed to be a firearm by a
31 manufacturer licensed pursuant to Chapter 44 (commencing with
32 Section 921) of Title 18 of the United States Code and the
33 regulations issued pursuant thereto.

34 (C) No tax was paid on the weapon or device nor was an
35 exemption from paying tax on that weapon or device granted
36 under Section 4181 and Subchapters F (commencing with
37 Section 4216) and G (commencing with Section 4221) of
38 Chapter 32 of Title 26 of the United States Code, as amended,
39 and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a “shuriken” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an “unconventional pistol” means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a “belt buckle knife” is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2 ½ inches.

(14) As used in this section, a “lipstick case knife” means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a “cane sword” means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a “shobi-zue” means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a “leaded cane” means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an “air gauge knife” means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a “writing pen knife” means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired

1 from the shoulder and designed or redesigned and made or
2 remade to use the energy of the explosive in a fixed cartridge to
3 fire only a single projectile through a rifled bore for each single
4 pull of the trigger.

5 (21) As used in this section, a “shotgun” means a weapon
6 designed or redesigned, made or remade, and intended to be fired
7 from the shoulder and designed or redesigned and made or
8 remade to use the energy of the explosive in a fixed shotgun shell
9 to fire through a smooth bore either a number of projectiles (ball
10 shot) or a single projectile for each pull of the trigger.

11 (22) As used in this section, an “undetectable firearm” means
12 any weapon which meets one of the following requirements:

13 (A) When, after removal of grips, stocks, and magazines, it is
14 not as detectable as the Security Exemplar, by walk-through
15 metal detectors calibrated and operated to detect the Security
16 Exemplar.

17 (B) When any major component of which, when subjected to
18 inspection by the types of X-ray machines commonly used at
19 airports, does not generate an image that accurately depicts the
20 shape of the component. Barium sulfate or other compounds may
21 be used in the fabrication of the component.

22 (C) For purposes of this paragraph, the terms “firearm,”
23 “major component,” and “Security Exemplar” have the same
24 meanings as those terms are defined in Section 922 of Title 18 of
25 the United States Code.

26 All firearm detection equipment newly installed in nonfederal
27 public buildings in this state shall be of a type identified by either
28 the United States Attorney General, the Secretary of
29 Transportation, or the Secretary of the Treasury, as appropriate,
30 as available state-of-the-art equipment capable of detecting an
31 undetectable firearm, as defined, while distinguishing innocuous
32 metal objects likely to be carried on one’s person sufficient for
33 reasonable passage of the public.

34 (23) As used in this section, a “multiburst trigger activator”
35 means one of the following devices:

36 (A) A device designed or redesigned to be attached to a
37 semiautomatic firearm which allows the firearm to discharge two
38 or more shots in a burst by activating the device.

1 (B) A manual or power-driven trigger activating device
2 constructed and designed so that when attached to a
3 semiautomatic firearm it increases the rate of fire of that firearm.

4 (24) As used in this section, a “dirk” or “dagger” means a
5 knife or other instrument with or without a handguard that is
6 capable of ready use as a stabbing weapon that may inflict great
7 bodily injury or death. A nonlocking folding knife, a folding
8 knife that is not prohibited by Section 653k, or a pocketknife is
9 capable of ready use as a stabbing weapon that may inflict great
10 bodily injury or death only if the blade of the knife is exposed
11 and locked into position.

12 (25) As used in this section, “large-capacity magazine” means
13 any ammunition feeding device with the capacity to accept more
14 than 10 rounds, but shall not be construed to include any of the
15 following:

16 (A) A feeding device that has been permanently altered so that
17 it cannot accommodate more than 10 rounds.

18 (B) A .22 caliber tube ammunition feeding device.

19 (C) A tubular magazine that is contained in a lever-action
20 firearm.

21 (d) Knives carried in sheaths which are worn openly
22 suspended from the waist of the wearer are not concealed within
23 the meaning of this section.